

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ANDREW KUZNYETSOV, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
vs.)	Civil Action No. 9-379
)	
WEST PENN ALLEGHENY HEALTH)	
SYSTEM, INC. <i>et al.</i> ,)	
)	
Defendants.)	

AMBROSE, District Judge

MEMORANDUM ORDER OF COURT

With respect to certain Plaintiffs who were the subject of Defendants' Motion for Partial Summary Judgment / Involuntary Dismissal (Docket No. 255), I ordered on October 19, 2010, as follows: 1) That Angeline Angelo shall provide questionnaire responses by October 22, 2010, or otherwise her claim may be involuntarily dismissed with prejudice for failure to participate in discovery; and 2) That Soosan Jacob provide three available dates for her deposition to Defendants by October, 25, 2010, or otherwise her claims may be involuntarily dismissed with prejudice for failure to participate in discovery. (Docket No. 337). "Despite best efforts, Class Counsel has been unsuccessful in securing a completed questionnaire from Angeline Angelo and completing a deposition with Soosan Jacob. Class Counsel is not confident that further efforts would yield these individuals' participation in the discovery process. Given this Court's previous Order, Class Counsel has notified these individuals that their continued failure to participate in discovery will result in their dismissal." (Docket No. 368). I find the continued failure to participate in discovery by these Plaintiffs demonstrates a conscious and deliberate desire not to participate in the litigation. Therefore, dismissal is warranted as these Plaintiffs (Angeline Angelo and Soosan Jacob) and they shall be dismissed for this case pursuant to Rule 41(b).

Additionally, Defendants have requested that be permitted to take the deposition of seven Plaintiffs who remain in the lawsuit and who represented that they are now willing to appear for deposition. (Docket No. 349). As a discovery matter, this issue should be decided in the first instance by the Special Master. Consequently, if Defendants intend to proceed with such a request, they must proceed with the issue before the Special Master.

BY THE COURT:

s/ Donetta W. Ambrose
Donetta W. Ambrose
United States District Judge